

Consideration of preliminary adoption of amendments to 312 IAC 18, governing entomology and plant pathology, to set standards for pest-and-pathogen-free nursery stock, as well as amendments to amend rule language to conform to 2009 statutory amendments; Administrative Cause No. 146E

The Division of Entomology and Plant Pathology proposes amendments to three items. These amendments would add new 312 IAC 18-3-22 to set standards for the production of pest and pathogen free nursery stock. In September 2009, the Commission approved preliminary adoption to add 312 IAC 18-3-22, but the language was modified from the agency's proposal. With the passage of time, and to help assure the Commission's direction is correctly implemented, the new section is now included in its modified form. The definition of "pest or pathogen" in 312 IAC 18-1-13, and the treatment of infested areas and quarantines in 312 IAC 18-2-2, would be amended to conform with statutory changes made by P.L. 17-2009, SEC.1.

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #11-

DIGEST

Amends 312 IAC 18-1-13 to update the definition of "pest or pathogen" to be consistent with the statutory definition. Amends 312 IAC 18-2-2 to allow the director to establish and modify boundaries of a quarantined area for a pest or pathogen consistently with amendments made to IC 14-24-4-2. Adds 312 IAC 18-3-22 to produce seedlings, used in reforestation, aforestation, or another natural resources purpose, that are free of pests or pathogens. Effective 30 days after filing with the Publisher.

312 IAC 18-1-13
312 IAC 18-2-2
312 IAC 18-3-22

SECTION 1. 312 IAC 18-1-13 IS AMENDED TO READ AS FOLLOWS:

312 IAC 18-1-13 "Pest or pathogen" defined

Authority: IC 14-10-2-4; IC 14-24-3-1
Affected: IC 14-24

Sec. 13. "Pest or pathogen" means:

- (A) an arthropod;
- (B) a nematode;
- (C) a microorganism; or
- (D) a fungus;
- (E) a parasitic plant;
- (F) a mollusk;
- (G) a plant disease; or

(H) an exotic weed;

that may be injurious to nursery stock, agricultural crops, other vegetation, or bees. (*Natural Resources Commission; 312 IAC 18-1-13; filed Nov 22, 1996, 3:00 p.m.:20 IR 941; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; readopted filed Sep 19, 2008, 10:23 a.m.: 20081008-IR-312080076RFA*)

SECTION 2. 312 IAC 18-2-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 18-2-2 Infested areas; quarantines

Authority: IC 14-10-2-4; IC 14-24-3-1

Affected: IC 14-24

Sec. 2 (a) The division may inspect any site in Indiana where agricultural, horticultural, or sylvan products are being grown, shipped, sold, or stored to determine if a pest or pathogen is present. If, as a result of an inspection, a site is determined to be infested with a pest or pathogen that is likely to spread or communicate to adjacent or contiguous territory in an adjoining township area, the director may ~~declare all or part of the township~~ **prescribe the boundaries of an area** where the pest or pathogen is located **and declare the area** to be an infested area.

(b) The division director shall formulate a quarantine under section 3 of this rule for an infested area declared under subsection (a). The quarantine may restrict or prohibit the transportation, maintenance, or continued existence of designated plants, plant products, elements of beekeeping, pests or pathogens, animal products, or other articles or materials known or reasonably believed to harbor or carry pests or pathogens. (*Natural Resources Commission; 312 IAC 18-2-2; filed Nov 22, 1996, 3:00 p.m.:20 IR 942; readopted Oct 2, 2002, 9:10 a.m.: 26 IR 546; readopted filed Sep 19, 2008, 10:23 a.m.: 20081008-IR-312080076RFA*)

SECTION 3. 312 IAC 18-3-22 IS ADDED TO READ AS FOLLOWS:

312 IAC 18-3-22 Production of pest and pathogen free nursery stock

Authority: IC 14-10-2-4; IC 14-24-3-1

Affected: IC 14-24

Sec. 22. (a) This section assists with the implementation of IC 14-24-5-3 for a nursery which produces forest seedlings to be replanted in Indiana or outside of Indiana for any of the following:

- (1) Reforestation.**
- (2) Aforestation.**
- (3) Another natural resources purposes.**

(b) Pre-plant soil fumigation of forest seedling nursery beds is an official control treatment to meet quarantine requirements and to assure pest and pathogen free forest seedlings, including underground portions of forest seedlings.

(c) Pre-plant soil fumigation is the preferred method to produce pest and pathogen free forest seedlings.

(d) A nursery must perform any pre-plant soil fumigation treatment using state and federally-registered pesticides that are applied according to pesticide label instructions.

(e) A nursery must not perform any pre-plant soil fumigation treatment which differs from the requirements of this section except upon prior approval by the state entomologist or a designate of the state entomologist. (*Natural Resources Commission: 312 IAC 18-3-22*)